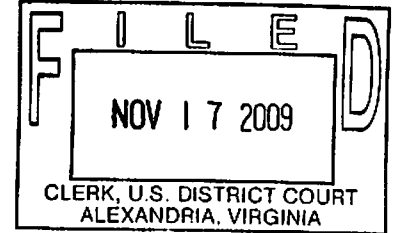


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



ZOMBA RECORDING, et al,

Plaintiffs,

v.

TRONG NGUYEN,

Defendant.

1:08cv1065 (LMB/TCB)

ORDER

On October 8, 2009, a magistrate judge issued a Report and Recommendation ("Report") in which she recommended that a default judgment in the amount of \$7,300.00 (consisting of \$6,750.00 in statutory damages and \$550.00 in costs) and declaratory relief be entered in favor of the plaintiffs, all of which own copyrights to various recordings. In this action, brought against defendant Trong Nguyen for copyright infringement under 17 U.S.C. § 101 et seq, plaintiffs seek the minimum statutory damages of \$750.00 for each violation, court costs in the amount of \$550.00, and injunctive relief prohibiting defendant from further infringing on plaintiffs' copyrights and requiring that defendant destroy all copies of recordings obtained in violation of those copyrights. The Report advised the parties that any objection to either its findings or its recommendations had to be filed within ten (10) days and that failure to file timely objections would waive appellate review of any judgment based on it. As of

November 17, 2009, neither party has filed an objection.

The magistrate judge correctly found that this Court has subject matter jurisdiction over this civil action under 17 U.S.C. § 101 et seq., 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a). This Court has personal jurisdiction over the defendant and venue is proper in this district under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400 because defendant resides in this district and a substantial part of the alleged infringement occurred here.

Plaintiffs effectuated service of process on May 6, 2009 through a private process server who delivered a copy of the Complaint to defendant's cousin, David Nguyen, who confirmed that he and the defendant resided together at the Annandale, Virginia address where the summons was served. See Summons Returned Executed, Dkt. No. 7, Leak Decl. ¶ 8; Cho Decl. ¶ 8. As of November 17, 2009, defendant has not filed responsive pleadings or otherwise responded to plaintiffs' Complaint or Application for Default Judgment, although the defendant did appear pro se at the default judgment hearing held on July 17, 2009. At that hearing, the magistrate judge advised the defendant that he must respond to plaintiffs' Application for Default Judgment but defendant failed to file any response.

Having fully reviewed the Report, case file, and plaintiffs' Application for Default Judgment with its attachments, the Court adopts the findings of fact and conclusions of law contained in

the Report as its own. Plaintiffs hold valid copyrights under United States copyright law with respect to several recordings. Defendant, without plaintiffs' permission, downloaded and/or distributed such copyrighted recordings in violation of 17 U.S.C. § 106(1) and (3). Accordingly, the plaintiffs' Application for Default Judgment [13] is GRANTED, and it is hereby


ORDERED that the plaintiffs' Proposed Order of Default Judgment and Permanent Injunction be and is entered.

A Notice of Appeal of this decision must be filed in writing with the Court within thirty (30) days of receipt of this Order. Failure to file a timely Notice of Appeal waives the right to appeal this decision.

The Clerk is directed to enter judgment pursuant to Fed. R. Civ. P. 55 in favor of plaintiffs and to forward copies of this Order to counsel of record for plaintiffs and to defendant pro se at his address of record, by certified mail, return receipt requested.

Entered this 17th day of November, 2009.

Alexandria, Virginia



Leonie M. Brinkema
United States District Judge